locate unchangeably its depot at a particular spot to subserve the private advantage of such individual. Railroad companies in order to fulfil one of the ends of their creation, the promotion of the public welfare, should be left free to establish and re-establish their depots wheresoever the accommodation of the wants of the public may require. To grant the relief asked for by the complainant, we would regard as against public policy, and he must be left for whatever remedy he may have to his suit at law for damages. The court below properly sustained the demurrer and dismissed the bill.

Supreme Court of Michigan.

BEAL *v.* CHASE AND THE ANN ARBOR PUBLISHING COMPANY.

A contract by the vendor of a good-will, &c., not to engage in a special business within the state, so long as the vendee should continue in the said business, is not void as in restraint of trade, and may be enforced by a court of equity.

BILL in equity for injunction, &c. On appeal from Washtenaw Circuit Court. The facts sufficiently appear in the opinion of the court, which was delivered by

CAMPBELL, J.—There have been two appeals in this case. The last one was from a decree taken while the former was pending in the Supreme Court, and was made as an additional decree upon no new hearing, and upon the case as presented to the Circuit Court when the first decree was made. As the statute expressly declares that on a chancery appeal "all proceedings shall be stayed until otherwise ordered by the Supreme Court" (Comp. L. § 5181), a majority of us think the Circuit Court had no power to make the second decree, and that it should be reversed, but without costs, as the return was not duplicated and the second decree was made on the judge's own motion. We do not discuss the questions covered by it.

Upon the first decree the court have arrived at a substantial agreement, although not agreeing in all respects in the reasons on which their action will be based. They will content themselves with as brief a reference as will make their views intelligible.

The bill was filed to restrain the alleged violation of rights secured to complainant in connection with a sale to him by defend ant Chase of a printing and publishing business and certain copy-

rights. Chase had built up a large and prosperous business in Ann Arbor, known very generally through the state and elsewhere, and having a very widely extended custom, under the name of "Dr. Chase's Steam Printing House." He had also published a very popular receipt book, which was circulated largely by means of correspondence and agencies, as well as advertising, and brought in large profits. For a large and adequate consideration, Chase sold to Beal his whole establishment, including a newspaper, the receipt book and other copyrights, "together with the good-will of the business of printing and publishing, and also the right to use the name of Dr. Chase in connection with said books," and providing that the said Beal, on his part, if he chooses, may carry on said business, and shall have that exclusive right under the name of "Dr. Chase's Steam Printing House," and may add R. A. Beal, proprietor. The accounts were also transferred, and some other things not important here. The following important provisions are directly involved in this controversy: Chase agreed not to engage directly or indirectly "in the business of printing and publishing in the state of Michigan," so long as Beal should remain in the business of printing and publishing in Ann Arbor. Beal was also "to have the privilege of receiving the letters connected with said business and opening the same." This was in August 1869. Chase left Ann Arbor not many months thereafter, and was absent some time in another residence in the West. Just after the sale he gave Beal authority to take from the post-office all letters not directed to his private box, and to obtain and receipt for all remittances and orders for money. Beal continued in a prosperous business and unmolested, until the course of action complained of began in 1872.

Chase, during that year, having conceived the opinion that his contract was void as an undue restraint of trade, began preparations for a new printing business, and began to prepare a new receipt book, and revoked his authority to Beal to obtain the letters not addressed to the printing-house.

In August 1872, several persons who had been thinking of setting up a printing establishment, but who had done nothing, negotiated with Chase, the result of which was the formation of the defendant corporation with a nominal capital of $50,000, of which Chase took one-half. They immediately began a general printing and publishing business and started a newspaper, and became for-

midable rivals of Beal. Dr. Chase became, and was announced conspicuously as their president and business manager. He prepared a new receipt book, which was called "Dr. Chase's Second Receipt Book," and which purported to include receipts on many subjects covering similar ground with the first, but more extensive and higher priced. Vigorous efforts were made to circulate it as superior to the first, and it was brought directly to the attention of persons who had dealt in or purchased the first. For this purpose use was made of correspondence intended for the publishers of the first book, and persons writing for that were informed of the publication, and impressed with the superiority of the second book.

Beal filed a bill in 1872 to restrain the publication of this second book, which the Ann Arbor Printing and Publishing Company had made an agreement to publish on a royalty. In July 1873, the present bill was filed complaining of all the acts above mentioned.

After suit was brought Chase sold out his stock and retired from the company, and the publication of the second receipt book was removed to Toledo.

The final decree enjoined Chase from being engaged directly or indirectly in the printing and publishing business in this state, or printing or publishing the second receipt book in this state, and from taking or opening any letters relating to Dr. Chase's recipes or Chase's Steam Printing House. The defendant corporation was enjoined from doing said business with or for Chase, directly or indirectly.

We are all agreed that Chase's connection with the business of the defendant company was such as to be a direct violation of his contract, and that the company knew of the contract throughout. We are all agreed that the measures taken to get a circulation of the New Receipt Book by the agencies and correspondence which had been or were at any time used or designed for the first were unlawful. We are all agreed that Beal was entitled to all correspondence intended for the old establishment and first receipt book, and that in case of doubt he was entitled to the benefit of the doubt as to its being so intended.

We are all agreed that Chase had no right to publish, by the terms of that contract, in Michigan (if valid), any receipt book so connected with his name as to lead to the inference that it was de-

signed to supersede the old one. And we concur (with some doubt on the part of one of us) that the New Receipt Book, with its title and announcements, has that tendency.

Concerning the validity of the agreement, we concur in regarding it as not unreasonable in fact, and as based on full consideration. One of us has doubted whether it could properly include the whole state, but considering the rule to the contrary as somewhat artificial, he concurs in maintaining the agreement.

Although some questions might arise as to whether a corporation could be restrained from dealings prohibited to a stockholder merely because it had such a stockholder, we do not discuss that, because Chase's connection with this company was something more, and the terms of the decree cannot fairly be wrested into any unreasonable meaning.

The decree is affirmed with costs, leaving questions of damages to be determined at law, and directing a power or authority to be executed whereby Beal can obtain the letters belonging to him, and so modifying the decree below as may be necessary to that end. The decree may stand as equivalent thereto until such authority is executed, and be used to obtain such letters from the post-office.

United States Circuit Court. Northern District of Georgia.

BROWN *v.* THE UNITED STATES EX REL. BRIDGES.

The courts of the United States have power to issue writs of *habeas corpus* to relieve from imprisonment persons confined under sentence of a state court, where the record shows that the state court had no jurisdiction of the alleged offence.

Bridges was indicted, convicted and sentenced in a state court for perjury, committed in a proceeding before a United States commissioner, under an Act of Congress. He sued out a *habeas corpus* before the United States Circuit Court. *Held,*

1. That the indictment showed that the perjury alleged was not a crime against the state, and that the proceedings of the state court were therefore void.

2. That the United States court had power to discharge the relator.

THIS was a writ of *habeas corpus*, under the first section of the Act of Congress of February 5th 1867, in behalf of Dock Bridges, a freedman, citizen of the United States and of Georgia. The application set forth that Bridges was held in imprisonment in the state penitentiary, without law or right, and in violation of the Constitution and laws of the United States, charged with the crime of perjury against the laws of Georgia; that he was not guilty, or if guilty of any offence, it was not against the state, but against the United